

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

**OAKLAND FAMILY
RESTAURANTS, INC. and LAKE
AREA RESTAURANTS, INC.,**

Plaintiffs,

vs.

**AMERICAN DAIRY QUEEN
CORPORATION,**

Defendant.

2:21-CV-12530-TGB-APP

**ORDER GRANTING
ATTORNEY GENERAL'S
MOTION TO INTERVENE
AND SETTING DEADLINES
(ECF NO. 34)**

Before the Court is a motion filed by the Michigan Department of the Attorney General to intervene in this case as a matter of right. ECF No. 34. Plaintiffs Oakland Family Restaurants, Inc. and Lake Area Restaurants and Defendant American Dairy Queen Corporation concur in the relief sought.

Federal Rule of Civil Procedure 24(a) governs intervention as a matter of right. As relevant here, it provides that, “[o]n timely motion, the court must permit anyone to intervene who ... is given an unconditional right to intervene by a federal statute.” Fed. R. Civ. P. 24(a)(1). 28 U.S.C. § 2403(b) provides that “the court ... shall permit the State to intervene ... for argument on the question of constitutionality” in “any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party.”

The Attorney General asserts that it received notice on April 28, 2023 that Defendant American Dairy Queen Corporation was challenging the constitutionality of certain provisions of the Michigan Franchise Investment Law, MCL § 445.1501 *et seq.*, as applied to an agreement between Defendant American Dairy Queen Corporation and Plaintiffs Oakland Family Restaurants, Inc. and Lake Area Restaurants, Inc. Because it filed its motion to intervene within 60 days of receiving this notice, it asserts that the motion is timely.

Although this case has already progressed to an advanced stage, such that the parties have filed dispositive motions, there is no question that 28 U.S.C. § 2403(b) gives the Attorney General the unconditional right to intervene in this action. Defendant American Dairy Queen's defense implicates the constitutionality of a Michigan statute, and the Attorney General filed its motion promptly on being notified of this defense. Moreover, the parties concur to the proposed intervention.

Accordingly, the Michigan Attorney General's Motion to Intervene (ECF No. 34) is **GRANTED**, and the Michigan Attorney General will be added as a party to this action. The Attorney General will have **FOURTEEN (14) DAYS** to file any brief it believes necessary to respond to the constitutional challenge raised in the parties' dispositive motions (ECF Nos. 25 & 26). The parties will be granted **SEVEN (7) DAYS** to file

simultaneously any responses they believe are required.

IT IS SO ORDERED, this 10th day of January, 2024.

BY THE COURT:

/s/Terrence G. Berg

TERRENCE G. BERG

United States District Judge